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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.              | CONFIRMATION NO. |
|--|-------------|----------------------|----------------------------------|------------------|
| 10/725,911   | 12/02/2003  | Wayne F. Krouse      |                                  | 3161             |
| 29281  | 7590        | 10/31/2005           |                                  |                  |
| JAMES D. PETRUZZI<br>4900 WOODWAY SUITE 745<br>HOUSTON, TX 77056 |             |                      | EXAMINER<br>AGWUMEZIE, CHARLES C |                  |
|  |             |                      | ART UNIT                         | PAPER NUMBER     |
|  |             |                      | 3621                             |                  |

DATE MAILED: 10/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |   |                                      |  |
|------------------------------|---|--------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/725,911    | <b>Applicant(s)</b><br>KROUSE ET AL. |  |
|                              | <b>Examiner</b><br>Charlie C. Agwumezie | <b>Art Unit</b><br>3621              |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 02 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>03/02/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. **Claims 1-6, 8-14, 16-22, 24-30 and 32**, are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al U.S. Patent Application Publication No. 6,282,522 in view of Jarman et al U.S. Patent Application Publication No. 2003/0167178.
2. As per **claim 1 and 17**, Davis et al discloses a remote location transaction, bank issued card system for cardholder purchasing of services and goods selected for purchase using a remote location communication device having a browser program and connected to a public communications network to which merchant servers are connected and for payment using a standard bank issued card (a credit card or a debit card) of the type having cardholder account information recorded in a magnetic stripe on the bank issued card, the system comprising:

(a) a magnetic stripe reader connected to the remote location communication device and having a point of sale (POS) identification code and configured to read cardholder account information from the standard bank issued card and to provide an

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indication to the communication device representing the POS identification and the cardholder account information (fig. 4, 5, 10 and 16; col. 6, lines 32-53; col. 10, lines 50-65; col. 12, lines 1-22; col. 37, lines 10-20; col. 14, lines 28-52);

(b) a software program loaded on the communication device to receive the indication representing the POS and the account information from the magnetic card reader and to convey it along with selected services or goods through the browser program and the public network and to a merchant server on the network (fig. 10, and 11; col. 12, lines 23-45);

(c) an encryption program by which the information conveyed through the public network is encrypted for secure transmission to the merchant server (fig. 8, 9 and 11C; col. 3, lines 26-42, 53-60; col. 11, lines 39-47; col. 23, lines 10-24); and

(d) a bank issued card transaction completion system comprising an existing transaction processing system and connected to the merchant server for conveying the account information and POS identifier to the bank that issued the bank issued card to the cardholder and for authenticating the cardholder's use of the bank card thereby establishing that the bank issued card is present and settling the transaction on the basis of fee charges that are less than fee charges for card not present transactions (figs. 5, 7, 8, 9, 10 and 16; col. 7, lines 6-25; col. 9, lines 29-47; col. 16, lines 22-38).

What Davis et al does not explicitly teach is a card reader having a point of sale (POS) identification code.

Jarman et al discloses a card reader having a point of sale (POS) identification code (0042; 0043; 0050; 0053; 0057; 0068).

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the system of Davis et al and incorporate a card reader having a point of sale (POS) identification code as taught by Jarman et al in order to show the location and/or identify the particular card reader that the card was swiped on.

3. As per **claim 2, 10 18 and 26**, Davis et al further discloses the remote location transaction, bank issued card system wherein the bank issued card comprises a credit card (figs. 3-9 and 16; col. 3, lines 13-25; col. 11, lines 15-45).

4. As per **claim 3, 11 19 and 27**, Davis et al further discloses the remote location transaction, bank issued card system wherein the bank issued card comprises a debit card (col. 1, lines 34-49).

5. As per **claim 4, 12 and 28**, Davis et al further discloses the remote location transaction, bank issued card system wherein the card reader is integrally formed with a keyboard terminal through which the card reader is connected to the remote location communication device (col. 12, lines 1-22).

6. As per **claim 5, 13 and 29**, Davis et al further discloses the remote location transaction, bank issued card system wherein the encryption program comprises an SSL program (col. 23, lines 25-32).

7. As per **claim 6, 14, 22 and 30**, Davis et al further discloses the remote location transaction, bank issued card system wherein the authentication system comprises a personal identification number (PIN) known to the cardholder and associated with the cardholder' account information by the issuing bank for authentication (col. 3, lines 60-col. 4, lines 1-15).

8. As per **claim 8, 24**, Davis et al further discloses the remote location transaction, bank issued card system wherein the authentication system treats the transaction as a card present transaction (col. 37, lines 10-20).

9. As per **claim 9 and 25**, Davis et al discloses a bank issued card transaction system for cardholder purchasing of services and goods selected for purchase over a public network from a remote location at a physical location other than the location of a merchant providing the selected services or goods, comprising:

(a) a remote location communication device having a browser program and connected to a public communications network to which merchant servers are connected (figs. 4-10 and 16 and accompanying text);

(b) a standard bank issued card provided to a cardholder by an issuing bank and of the type having customer account information recorded in a magnetic stripe on the bank issued card (fig. 1; col. 13, lines 55-col. 14, lines 1-5; col. 15, lines 63-col. 16, lines 1-10; col. 19, lines 28-44);

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(c) a magnetic stripe reader connected to the remote location communication device and having a point of sale (POS) identification code and configured to read customer account information from the standard bank issued card and to provide a signal to the communication device representing the POS identification and the customer account information (fig. 4, 5, 10 and 16; col. 6, lines 32-53; col. 10, lines 50-65; col. 12, lines 1-22; col. 37, lines 10-20; col. 14, lines 28-52);

(d) a software program loaded on the communication device to receive the signal representing the POS and the account information from the magnetic card reader and to convey it along with selected services or goods through the browser program and the public network and to a merchant server on the network(fig. 10, and 11; col. 12, lines 23-45);

(e) an encryption program by which the information conveyed through the public network is encrypted for secure transmission to the merchant server(fig. 8, 9 and 11C; col. 3, lines 26-42, 53-60; col. 11, lines 39-47; col. 23, lines 10-24); and

(f) a bank issued card transaction completion system comprising an existing transaction processing system connected to the merchant server for conveying the account information and POS identifier to the bank that issued the bank card to the cardholder and for authenticating the cardholder's use of the bank card thereby establishing that the bank card is present and settling the transaction on the basis of fee charges that are less than fee charges for card not present transactions (figs. 5, 7, 8, 9, 10 and 16; col. 7, lines 6-25; col. 9, lines 29-47; col. 16, lines 22-38).

What Davis does not explicitly teach is is a card reader having a point of sale (POS) identification code.

Jarman et al discloses a card reader having a point of sale (POS) identification code (0042; 0043; 0050; 0053; 0057; 0068).

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the system of Davis et al and incorporate a card reader having a point of sale (POS) identification code as taught by Jarman et al in order to show the location and/or identify the particular card reader that the card was swiped on.

10. As per **claim 16 and 32**, Davis et al discloses a method of treating a remote location initiated bank issued card transaction, namely a transaction for cardholder purchasing of services and goods selected for purchase over a public network from a location away from a merchant providing the selected services or goods, as a transaction other than a card not present transaction, the method comprising the steps of:

(a) providing a remote location communication device having a browser program (col. 6, lines 54-65);

(b) connecting the remote location communication device to a public communications network to which merchant servers are connected (col. 6, lines 54-65);

(d) issuing a standard bank issued card to a cardholder from an issuing bank, the standard bank issued card of the type having customer account information recorded in



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a magnetic stripe on the bank issued card (fig. 1; col. 13, lines 55-col. 14, lines 1-5; col. 15, lines 63-col. 16, lines 1-10; col. 19, lines 28-44);

(f) connecting the magnetic stripe reader to the remote location communication device (figs. 4, 10 and 16; col. 12, lines 1-23);

(g) configuring the magnetic card reader to read customer account information from the standard bank issued card and to provide an indication to the remote location communication device representing the POS identification and the customer account information (fig. 4, 5, 10 and 16; col. 6, lines 32-53; col. 10, lines 50-65; col. 12, lines 1-22; col. 37, lines 10-20; col. 14, lines 28-52);

(h) loading a software program onto the remote location communication device, said software capable of receiving the indication representing the POS identification and the account information from the magnetic card reader and capable of conveying the POS and account information through the browser program and the public network and to a merchant server on the network (fig. 10, and 11; col. 12, lines 23-45);

(i) using a browser program to selected and identify services or goods to be purchased from a given merchant having a merchant server on the public network; (j) encrypting the POS identification and account information (fig. 10, and 11; col. 12, lines 23-45);

(k) conveying the encrypted POS identification and account information along with the identity of the selected services and goods to be purchased through the public network to the merchant server (fig. 8, 9 and 11C; col. 3, lines 26-42, 53-60; col. 11, lines 39-47; col. 23, lines 10-24)); and

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(l) authenticating the cardholder's use of the bank card thereby establishing that the bank card is present by conveying the POS identification and account information from the merchant server to the issuing bank and thereby permitting settlement of the transaction on the basis of fee charges that are less than fee charges for card not present transactions (figs. 5 7, 8, 9, 10 and 16; col. 7, lines 6-25; col. 9, lines 29-47; col. 16, lines 22-38).

What Davis et al does not explicitly teach is

(e) providing a magnetic card reader with a point of sale (POS) identification code;

Jarman et al discloses (e) providing a magnetic card reader with a point of sale (POS) identification code (0042; 0043; 0050; 0053; 0057; 0068).

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the system of Davis et al and incorporate a card reader having a point of sale (POS) identification code as taught by Jarman et al in order to show the location and/or identify the particular card reader that the card was swiped on.

11. As per **claim 20**, Davis et al further discloses the home transaction bank card system wherein the memory is electronically programmable (fig. 1; col. 3, lines 60-col 4, lines 1-10).

12. As per **claim 21**, Davis et al further discloses the home transaction bank card

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system wherein the memory is flash memory (fig. 1; col. 3, lines 60-col 4, lines 1-10).

13. **Claims 7, 15, 23 and 31**, are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al U.S. Patent Application Publication No. 6,282,522 in view of Jarman et al U.S. Patent Application Publication No. 2003/0167178as applied to claim 1, 9, 17 and 25 above, and further in view of Liu et al U.S. Patent Application Publication No. 2003/0101134.

14. As per **claim 7, 15, 23 and 31**, both Davis et al and Jarman et al failed to explicitly disclose the remote location transaction, bank issued card system wherein the authentication system further comprises a Verified by Visa program.

Liu et al discloses the remote location transaction, bank issued card system wherein the authentication system further comprises a Verified by Visa program (0008).

Accordingly it would have been obvious to one of ordinary skill in the art at time of applicant's invention to modify the system of Davis et al and incorporate a remote location transaction, bank issued card system wherein the authentication system further comprises a Verified by Visa program as taught by Jarman et al in order to show or implement an additional layer of security.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles C. Agwumezie whose number is **(571) 272-6838**. The examiner can normally be reached on Monday – Friday 8:00 am – 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on **(571) 272 – 6712**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Any response to this action should be mailed to:

***Commissioner of Patents and Trademarks***

**Washington D.C. 20231**

Or faxed to:

**(571) 273-8300**. [Official communications; including After Final communications labeled "Box AF"].

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**(571) 273-8300.** [Informal/Draft communications, labeled "PROPOSED" or "DRAFT"].

Hand delivered responses should be brought to the Examiner in the Knox Building, 50  
Dulany Street Alexandria VA.

acc

October 24, 2005

*Sumner Best*  
Primary Examiner